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Forty-eighth session
Item 17 of the provisional agenda

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES AT ITS FORTY-THIRD SESSION

Note by the Secretary-General

The report of the Working Group on a draft declaration on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1991/45) on its second session (22 August 1991) is transmitted to the Commission on Human Rights for comments and guidance on the issues mentioned therein in accordance with Sub-Commission decision 1991/114.

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REPORT OF THE WORKING GROUP ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Chairman-Rapporteur: Ms. Zagorka Ilic (Yugoslavia)

Introduction

1. In its resolution 1991/61, the Commission on Human Rights recommended that the Economic and Social Council authorize an open-ended working group to meet in an inter-sessional meeting to complete its second reading of the draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities, with a view to submitting the text to the Commission at its forty-eighth session. This authorization was contained in Council resolution 1991/30.

2. The Working Group held 13 meetings during the period 2-13 December 1991. Delegations also held extensive informal consultations.

3. At its 1st meeting, on 2 December, a statement was made by the Under-Secretary-General for Human Rights, Mr. Jan Martenson.

4. At the same meeting, the Working Group unanimously elected Ms. Zagorka Ilic (Yugoslavia) as its Chairman-Rapporteur.

5. The Working Group had before it the following documents:

(a) Provisional agenda (E/CN.4/1991/WG.5/L.2);

GE.91-14240/4099B

(b) Report of the open-ended Working Group set up by the Commission on Human Rights at its forty-seventh session to consider the drafting of a declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, containing in annex I the text of the draft declaration as adopted in second reading (E/CN.4/1991/53 and Corr.1);

(c) Analytical compilation of the comments received in pursuance of paragraph 3 of Commission on Human Rights resolution 1990/45 on the rights of persons belonging to national, ethnic, religious and linguistic minorities (E/CN.4/1991/52 and Add.1 and 2);

(d) Note verbale dated 5 March 1991 from the Permanent Mission of Bulgaria to the United Nations Office at Geneva addressed to the Centre for Human Rights (E/CN.4/1991/88);

(e) Note verbale dated 2 December 1991 from the Permanent Mission of Ukraine to the United Nations Office at Geneva addressed to the Centre for Human Rights (E/CN.4/1992/59);

(f) Working paper submitted by the Republic of Iraq (E/CN.4/1991/WG.5/WP.1).

6. In addition, the Working Group had before it a number of written proposals for the various draft articles as put together by informal drafting groups. These texts are reproduced in the present report.

I. DISCUSSION ON THE TEXT OF THE DRAFT DECLARATION

Article 2

7. The Working Group considered paragraph 2 of article 2 at its 1st and 2nd meetings.

8. The Working Group used as a basis for discussion the texts of paragraph 2 of article 2 as presented at the last session of the Working Group. The first text included the proposal by the delegation of Austria, which read as follows:

> "2. States shall adopt appropriate legislative or other measures to achieve those ends, with due regard to the principles of this Declaration and the principles embodied in the Universal Declaration of Human Rights."

9. The second text included a proposal by an informal drafting group, reading:

> "In accordance with their respective constitutional processes, States shall adopt appropriate legislative or other measures, with due regard to the principles embodied in this Declaration, and in the Universal Declaration of Human Rights and without infringement of the rights of other citizens of the State."

10. In the course of the debate various comments were put forward. It was suggested that the words "In accordance with their respective constitutional processses" be deleted; that the words "and without infringement of the rights

of other citizens of the State" be deleted; that the word "or" be replaced by the word "and"; and that the phrase "to achieve those ends" be inserted after the words "other measures".

11. After a debate on the amendments, one delegation proposed the following text for paragraph 2:

> "States shall adopt appropriate legislative and other measures to achieve those ends."

12. One delegation raised the question whether replacing the word "or" with the word "and" would oblige States to adopt legislation. It was the understanding of the Working Group that the word "appropriate" would allow States to decide whether or not to adopt legislation.

13. Another delegation proposed to replace the word "shall" with the words "should consider to". This suggestion did not meet with general approval of the the Working Group.

14. Paragraph 2 of article 2, as amended, was adopted in second reading at the 2nd meeting of the Working Group.

15. For the text, as adopted in second reading, see annex I, article 1, paragraph 2. 1/

Article 3

16. The Working Group considered the contents of article 3 at its 2nd to 6th meetings.

17. At the 2nd meeting, the Working Group debated the contents of paragraph 1 of article 3. It was pointed out by one delegation that the language of paragraph 1 drew considerably on article 27 of the International Covenant on Civil and Political Rights and should therefore remain consistent with the latter provision. One delegation recalled its statement made in this context during the last session of the Working Group (see E/CN.4/1991/53, para. 30). It was further suggested that the square brackets surrounding the words "persons belonging to" be deleted. This proposal was approved by the Working Group taking into account the decision at the last sesssion of the Working Group that the square brackets surrounding the words "persons belonging to" be deleted throughout the draft declaration.

18. Another delegation suggested that the words "individually or in community with the other members of their group" be deleted and that the words "in private and in public" be inserted between the words "language" and "freely". With regard to the former amendment several delegations pointed out that article 1 of the draft declaration already covered the concept that members of minorities may exercise their rights, including those set forth in the draft declaration, individually or in community with other members of their group.

19. Paragraph 1 of article 3, as amended, was accordingly adopted in second reading at the 2nd meeting of the Working Group.

20. For the text, as adopted in second reading, see annex I, article 2, paragraph 1. 1/

21. At the same meeting, the Working Group began consideration of paragraph 2 of article 3. One delegation suggested that the phrase "where these are not incompatible with national legislation and international standards" be inserted after the words "traditions and customs". It was stated that the concept of traditions and customs needed to be qualified. The same delegation expressed the view that it could not accept practices such as female circumcision, polygamy and ritual slaughters.

22. Several amendments were proposed as to the wording of the paragraph. One delegation suggested that the word "All" at the beginning of the paragraph be deleted. Some delegations expressed their preference for the formula "shall ensure that" whilst other delegations favoured the formula "will promote the creation of favourable conditions".

23. At the 2nd meeting, the Working Group also began consideration of paragraph 3 of article 3. In the course of the discussion, it was stated that article 3 lacked a logical structure. Most delegations welcomed the suggestion that article 3 should only contain a catalogue of rights of persons belonging to minorities, and that measures of implementation be listed in subsequent articles of the declaration. It was further suggested that the words "To the same ends" be deleted. Some delegations suggested that the sentence "This right shall be exercised in accordance with national legislation and relevant international human rights instruments." be deleted or, if kept, the wording should be modified. Other delegations expressed the view that the sentence should be retained.

24. At the 3rd meeting, the Working Group continued its consideration of paragraphs 2 and 3 of article 3. It had before it the proposals mentioned below, which took into account various amendments and suggestions made in the course of the debate on paragraphs 2 and 3, as adopted in first reading.

25. The first proposal was submitted by the delegation of Hungary, which read as follows:

> "Article 3, paragraph 2
>
> "(a) All States which have not yet done so shall ensure that persons belonging to minorites are freely able to express their characteristics, to develop their education, culture, language, religion, traditions and customs;
>
> "(b) Persons belonging to minorities have the right to participate on an equitable basis in the cultural, religious, social, economic and political life in the country they live;
>
> "(c) (new) Persons belonging to minorities have the right in order to achieve these goals to create their own associations and institutions in the social, cultural, political and public life."

26. A second text was submitted by the delegations of Bulgaria and France. The proposal read as follows:

> "3 (2) States will promote the creation of favourable conditions on their respective territories to enable persons belonging to minorities to express their characteristics, to develop their culture, language, religion, traditions and customs, [where consistent with national law and international standards].
>
> "3 (3) States will likewise promote the creation of such conditions to enable persons belonging to minorities to participate on an equitable basis in the cultural, religious, social, economic and public life.
>
> "3 (4) Persons belonging to minorities have the right to establish and maintain associations."

27. At the same meeting, the delegation of the Minority Rights Group suggested that in the text of paragraph 2 of article 3, as adopted in first reading, the phrase "and to participate on an equitable basis in the cultural, religious, social, economic and political life in the country where they live" be replaced as follows:

> "Minorities have the right to organize themselves for private and public purposes. Where appropriate, measures for self-management and autonomy in matters internal to minorities may be established."

28. The same delegation suggested that the square brackets in paragraph 3 be deleted and that a new paragraph be added, which would read as follows:

> "All States shall ensure that persons belonging to minorities are freely able to express their characteristics, to develop their education, culture, language, religion, traditions and customs."

29. In the course of the debate various comments were put forward. Some delegations expressed the view that the concept of self-management should be included in this declaration but that it should be further elaborated whereas other delegations opposed the formulation of the concept as proposed. The proposal was deferred for later consideration.

30. Concerning the wording of subparagraph (a) of the proposal submitted by the delegation of Hungary and of paragraphs 2 and 3 of the proposal submitted by the delegations of Bulgaria and France, some delegations expressed preference for the wording "shall ensure" whilst other delegations favoured he phrase "will promote the creation of favourable conditions". It was stated by one delegation that a mandatory language such as "shall" was not appropriate in a non-binding instrument. Several delegations expressed preference for the word "shall" in order to stress the idea that States should give active support to minorities. One delegation pointed out that article 27 of the International Covenant on Civil and Political Rights uses the wording "... persons belonging to such minorities shall not be denied the right ..." and therefore avoids an explicit reference to implementation measures to be adopted by States. As to subparagraph (b) of the Hungarian proposal, it was suggested that the words "in the country where they live" be deleted and that

the words "political life" be replaced by the words "public life". It was stated that the wording "public life" was a more comprehensive concept and included both political and administrative life. As the Working Group did not arrive at agreement on any of these proposals, it referred the subject matter to an informal drafting group.

31. At the 4th meeting, the delegation of Hungary submitted a proposal reading:

> "Persons belonging to minorities have the right to create their own associations and institutions in the social and cultural life and also have the right to participate in public life through organizations established in accordance with the principles of rule of law, in order to exercise their rights embodied in the present Declaration."

32. It was stated that this proposal was a revision of paragraph (c) of the proposal submitted by this delegation at the 3rd meeting (see para. 25 above).

33. At the same meeting, the informal drafting group presented its proposal for paragraphs 2 and 3 of article 3 (informal working paper of 4 December 1991). The proposal read as follows:

> "2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
>
> "3. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group, with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national, ethnic, religious or linguistic ties."

34. Paragraph 2 of article 3, as amended, was adopted in second reading at the 4th meeting of the Working Group.

35. For the text, as adopted in second reading, see annex I, article 2, paragraph 2. 1/

36. Paragraph 3 of article 3 was debated at the 4th and 5th meetings of the Working Group. The Working Group used as a basis for discussion the text as proposed by the informal drafting group (see para. 33 above). One delegation suggested that the words "across frontiers" be deleted. It was stated that contacts with citizens of other States necessarily took place across borders and the phrase was therefore redundant. Most delegations expressed the view that the phrase "across frontiers" should be retained as it reflected the idea that minorities had the right to establish and maintain contacts within as well as outside the State. The phrase "national ... ties" also caused concern. It was pointed out that the situation in which members of minorities were related by national ties was mainly present in Europe. In this connection, it was argued that an implied reference to regional situations in a universal declaration did not work to the detriment of the rights of minorities as a whole. One delegation suggested that the word "or" be inserted between the words "national" and "ethnic".

37. At the 5th meeting, the Working Group accordingly adopted paragraph 3 of article 3.

38. For the text, as adopted in second reading, see annex I, article 2, paragraph 5. 1/

39. At the 6th meeting, the Working Group had before it a proposal for a new additional paragraph 4 to article 3 submitted by the informal drafting group. The proposal read as follows:

> "New additional paragraph 4 to article 3
>
> "Persons belonging to minorities have the right to establish and maintain their own associations."

40. Some delegations suggested that the words "institutions and" be inserted before the word "associations" whereas other delegations opposed reference to institutions. As the Working Group did not arrive at any agreement, it referred the subject matter to the informal drafting group. The above text of paragraph 4 of article 3 was adopted at the 7th meeting of the Working Group. In developing this text, it was indicated that the term "associations" was to be given a broad meaning and could, in particular national settings, include social and cultural institutions.

41. For the text, as adopted in second reading, see annex I, article 2, paragraph 4.

Article (...)

42. At the 7th meeting, the Working Group had before it a proposal submitted by the informal drafting group (informal working paper of 6 December 1991), which read as follows:

> "States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are incompatible with national law and international standards."

43. One delegation proposed that the words "incompatible with" be replaced by the words "in violation of" as the latter was considered softer. It was also suggested that the words "contrary to" be inserted before the word "international". The article, as amended, was adopted at the 7th meeting of the Working Group.

44. For the text, as adopted in second reading, see annex I, article 4, paragraph 2. 1/

Article 4

45. The Working Group considered the contents of article 4 at its 7th and 9th meetings.

46. At the 7th meeting, the Working Group had before it a proposal submitted by the informal drafting group (informal working paper of 6 December 1991). The proposal read as follows:

> "States will take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and with full equality before the law."

47. In the course of the debate various comments were put forward. It was proposed that the word "with" be replaced by the word "in"; that the word "may" be replaced by the word "can" and that the word "will" be replaced by the word "shall". One delegation suggested that the words "before the law" be deleted. It was stated that the term "equality" was of a general nature and should not be limited to the narrow definition of law. Several delegations strongly opposed the deletion of the phrase, stating that a qualification was needed. Those delegations emphasized that the expression "equality before the law" should not be given a narrow formal meaning.

48. At the same meeting, the Working Group adopted the following text:

> "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law."

49. For the text, as adopted in second reading, see annex I, article 4, paragraph 1. 1/

50. At the 9th meeting, the Working Group continued its consideration of article 4. It had before it a proposal submitted by the informal drafting group (informal working paper of 9 December 1991), which read as follows:

> "States should, where appropriate, take measures in the field of education, in order to promote the knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
>
> "States should take appropriate measures in order to ensure, wherever possible, that persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue."

51. One delegation proposed that the word "promote" in the first paragraph be replaced by the word "encourage"; that the words "in order to ensure" in the second paragraph be replaced by the words "so that" and that the word "that" before the word "persons" be deleted. The above paragraphs, as amended, were adopted at the 9th meeting of the Working Group.

52. For the texts, as adopted in second reading, see annex I, article 4, paragraphs 3 and 4. 1/

Article 5

53. At the 8th meeting, the Working Group debated the contents of article 5.

54. The text of paragraph 1, as set out in the draft declaration which was adopted in first reading, was adopted without any changes at the 8th meeting of the Working Group.

55. For the text, as adopted in second reading, see annex I, article 8, paragraph 1.

56. At the same meeting, the Working Group began consideration of paragraphs 2, 3 and 4 as adopted in first reading. Several delegations favoured adopting those paragraphs without any changes. Some delegations, however, strongly opposed the inclusion of the words "and, in particular, contrary to the sovereignty, territorial integrity and political independence." at the end of paragraph 3.

57. Some delegations pointed out that the contents of paragraphs 2 and 4 overlapped. It was suggested by one delegation that the contents of those paragraphs be incorporated in a new paragraph. The Working Group decided to refer the subject-matter to the informal drafting group.

58. At the 10th meeting, the Working Group had before it a proposal submitted by the informal drafting group (informal working paper of 11 December 1991), which read as follows:

> "2. The exercise of the rights as set forth in this Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.
>
> "3. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States."

59. Paragraph 2 of article 5 was adopted at the 10th meeting of the Working Group.

60. For the text, as adopted in second reading, see annex I, article 8, paragraph 2. 1/

61. Commenting on paragraph 3, one delegation suggested that the phrase "political unity" be inserted after the phrase "political independence". Most delegations, however, opposed this proposal. It was stated that the wording of the enumerated principles was taken from the Charter of the United Nations and should therefore remain consistent with the latter.

62. Paragraph 3 of article 5 was adopted at the 10th meeting of the Working Group.

63. For the text, as adopted in second reading, see annex I, article 8, paragraph 4. 1/

64. The delegation of Turkey requested the following declaration to be recorded:

> "In United Nations General Assembly resolution 2625 (XXV) [entitled] 'Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations', territorial integrity is employed together with political unity. The concept of political unity is essential and indispensable in complementing territorial integrity. Minority rights should not impair political unity of States. Therefore in article 8, paragraph 4, the phrase 'political unity' should be inserted after the phrase 'political independence'."

Article 6

65. At the 8th meeting of the Working Group, it was decided to delete article 6 as adopted in first reading.

Article 7

66. The Working Group debated the contents of article 7 at its 6th, 7th and 9th meetings.

67. Commenting on paragraph (a) of article 7, one delegation pointed out that the contents of that paragraph was similar to article 3 and therefore needed to be revised. Most delegations expressed their approval of the elements contained in the paragraph. It was, however, felt that drafting should be referred to an informal drafting group. The Working Group accordingly decided to refer the drafting of paragraph (a) to the informal drafting group.

68. At the 7th meeting, a proposal by the informal drafting group was introduced (informal working paper of 5 December 1991). The proposal read as follows:

> "Provisional paragraph 7 (a)
>
> "Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation."

69. Paragraph (a) of article 7, as amended, was adopted in second reading at the 7th meeting of the Working Group.

70. For the text, as adopted in second reading, see annex I, article 2, paragraph 3. 1/

71. At the 9th meeting, the Working Group continued consideration of article 7. It had before it a proposal submitted by the informal drafting group (informal working paper of 9 December 1991) reading:

"Article 7

"(b) National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

"Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities."

72. Paragraph (b) of article 7, as amended, was adopted in second reading at the 9th meeting of the Working Group.

73. For the text, as adopted in second reading, see annex I, article 5, paragraphs 1 and 2. 1/

Article (...)

74. At the 9th meeting, the Working Group had before it a proposal submitted by the informal drafting group (informal working paper of 9 December 1991), which read as follows:

"States should cooperate on questions relating to minorities, including exchange of information and experiences, in order to promote mutual understanding and friendship."

75. It was suggested that the words "persons belonging to" be inserted before the word "minorities"; that the word "respect" be inserted before the word "understanding"; that the word "tolerance" be inserted before the word "understanding"; and that the words "relating to" be replaced by the word "effecting". Finally, it was agreed to replace the word "friendship" by the word "confidence".

76. For the text, as adopted in second reading, see annex I, article 6. 1/

Article 8

77. The text of article 8, as set out in the draft declaration which was adopted in first reading, was adopted without any changes at the 9th meeting of the Working Group.

78. For the text, as adopted in second reading, see annex I, article 9. 1/

New article

79. At the 11th meeting of the Working Group, with reference to similar contents in other operative paragraphs, it was decided to delete the new article as adopted in first reading contained in annex II of document E/CN.4/1991/53.

Article (...)

80. At the 10th meeting, the delegation of Austria submitted the following text:

"Article (...)

"The principles, rights and obligations as set forth in this Declaration constitute matters of international concern."

81. The Working Group decided to refer the debate on this proposal to the informal drafting group.

82. At the 11th meeting, the Working Group had before it a proposal for new articles submitted by the informal drafting group (informal working paper of 12 December 1991). The proposal read as follows:

"Article (...)

"States should cooperate in order to promote respect for the rights as set forth in the Declaration."

"Article (...)

"Measures taken by States in order to ensure the effective enjoyment of the rights contained in this Declaration shall not be prima facie considered contrary to the principle of equality."

"Article (...)

"States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country."

83. The first article of the proposal submitted by the informal drafting group was adopted without any amendments at the 11th meeting of the Working Group.

84. For the text, as adopted in second reading, see annex I, article 7. 1/

85. Commenting on the second article, one delegation pointed out that it was decided by the informal drafting group that reference to the Universal Declaration of Human Rights should be kept at the end of the paragraph. It was accordingly decided to insert the words "contained in the Universal Declaration of Human Rights" after the word "equality". Another delegation proposed that the word "contained" after the word "rights" be replaced by the words "as set forth". One delegation suggested that the word "be" should be inserted after instead of before the words "prima facie".

86. At the 11th meeting, the Working Group adopted the following text:

> "Measures taken by States in order to ensure the effective enjoyment of the rights as set forth in this Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights."

87. For the text, as adopted in second reading, see annex I, article 8, paragraph 3. 1/

88. At the same meeting, the third article of the above proposal was adopted without any amendments by the Working Group.

89. For the text, as adopted in second reading, see annex I, article 4, paragraph 5. 1/

90. At the 11th meeting, the Working Group also considered a second proposal submitted by the informal drafting group, which read as follows:

> "Article (...)
>
> "No disadvantage shall result for persons belonging to minorities as the result of the exercise or non-exercise of rights as set forth in this Declaration."

91. During the debate on this proposal, one delegation suggested that the words "persons belonging to minorities" be replaced by the words "any person". Another delegation proposed that the word "result" in the second line be replaced by the word "consequence". These proposals met with the general agreement of the Working Group.

92. For the text, as adopted in second reading, see annex I, article 3, paragraph 2. 1/

II. ADOPTION OF THE PROVISIONS OF THE DRAFT DECLARATION AT SECOND READING AT THE 13TH MEETING OF THE WORKING GROUP

93. At the 12th meeting, the Working Group considered the sequence in which the provisions adopted in second reading should appear in the final draft declaration. It decided to group certain provisions, to incorporate new articles or paragraphs adopted by the Working Group at its present session and to renumber the operative part of the draft declaration accordingly.

94. At the same meeting, the Working Group adopted the draft declaration as contained in annex I.

95. After the adoption of the draft declaration, the delegation of Turkey made the following statement:

> "The major deficiency of the present declaration is that it fails to provide a definition of 'minorities'. This fact in future may lead to

confusion or misinterpretation. To avoid such undesirable eventuality as far as we are concerned, I would like to briefly stress the position of the Turkish Government on the declaration.

"The Government of Turkey will interpret the rights and obligations contained in the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities in accordance with the bilateral and international agreements or treaties in which the status of minorities are categorically determined.

"According to the Turkish Constitution and other relevant legislation all Turkish citizens, without any exception, enjoy equal rights and status. Hence, it is impossible to make any discrimination in favour of or against any person or group based on ethnic, religious or linguistic criteria. Apart from that we believe that the rights of the persons having ethnic, religious or linguistic differences should be considered within the framework of individual human rights."

III. SUGGESTIONS FOR PREAMBULAR AND OPERATIVE PARAGRAPHS TO BE INCLUDED IN THE RESOLUTION ACCOMPANYING THE DRAFT DECLARATION

96. At the 13th meeting, the Working Group considered the suggestions submitted by the informal drafting group for preambular and operative paragraphs for inclusion in a resolution accompanying the draft declaration. The proposal read as follows:

"Preambular paragraphs

"(-) Considering that this Declaration does not contain an exhaustive enumeration of measures that may be taken to protect persons belonging to minorities and their rights;

"(-) Recognizing that there is a continuing need to further develop international standards in this area;

"(-) Believing that the principles and rights as set forth in this Declaration involve matters of common interest;

"Operative paragraphs

"(-) The Secretary-General is invited to organize within the overall resources of the United Nations budget regional and global technical meetings to stimulate an exchange of experience in this field;

"(-) The Commission on Human Rights should consider possible measures related to the realization of the aims of this Declaration;

"(-) Treaty-bodies established under United Nations international instruments on human rights should be invited to take this Declaration into account;

"(-) United Nations organs and specialized agencies shall give special consideration to requests for technical cooperation and assistance that are designed to achieve the aim of this Declaration;

"(-) The Secretary-General is invited to take measures to encourage the translation, publication and availability of this Declaration in the languages of minorities concerned."

97. At the same meeting, the Working Group adopted these proposals.

IV. ADOPTION OF THE REPORT

98. At the 13th meeting, the Working Group also adopted the present report.

Note

1/ See paragraphs 93 and 94 of the present report.

Annex I

TEXT OF THE DRAFT DECLARATION AS ADOPTED IN SECOND READING

Draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in its Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles contained in the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,

Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

Considering that the United Nations has an important role to play regarding the protection of minorities,

Bearing in mind the work done so far within the United Nations system, in particular the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as the bodies established

pursuant to the International Covenants on Human Rights and other relevant international human rights instruments on promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Taking into account the important work which is carried out by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recognizing the need to ensure even more effective implementation of international instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.

2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

4. Persons belonging to minorities have the right to establish and maintain their own associations.

5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group, with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights including those as set forth in this Declaration individually as well as in community with other members of their group, without any discrimination.

2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights as set forth in this Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, including exchange of information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights as set forth in this Declaration.

Article 8

1. Nothing in this Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights as set forth in this Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Measures taken by States in order to ensure the effective enjoyment of the rights as set forth in this Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.

4. Nothing in this Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The organs and specialized agencies of the United Nations system shall contribute to the full realization of the rights and principles as set forth in this Declaration, within their respective fields of competence.